

§ 102.4

13 CFR Ch. I (1–1–03 Edition)

§ 102.4 How will SBA respond to my request?

Within the time limit described in § 102.3, SBA will either:

- (a) Give you all the records you requested;
- (b) Give you some or none of the records you requested, explain why SBA has decided not to comply fully with your request, citing specific exemptions where applicable, and explain how to appeal that decision; or
- (c) Tell you that you will not receive a response until you have either paid your fee or committed to the amount of fee you will pay, as applicable.

§ 102.5 If SBA grants my request, which records will be supplied?

SBA will give you copies of all records or portions of records requested which are in the processing office as of the close of the day upon which that office received your request.

§ 102.6 How will SBA respond to requests for business information?

(a) Business information is a trade secret, or commercial or financial information, contained in records provided to SBA by any person and which may be protected from disclosure under Exemption Four of FOIA (5 U.S.C. 552(b)(4)).

(b) The submitter is the business entity to which the business information pertains and which submitted the information to SBA, either directly or through an intermediary, such as a bank.

(c) SBA will disclose upon request business information that has previously been released to the general public.

(d) If you request business information submitted to SBA prior to March 1, 1996 which has not previously been released to the general public, SBA will notify the submitter of your request upon SBA's receipt of it if SBA intends to release that information. SBA will give the submitter 5 working days to identify information the disclosure of which would likely cause substantial competitive harm and why that harm would occur unless SBA intends to deny your request in full.

(e) If you request business information submitted to SBA after March 1,

1996 which has not previously been released to the general public, SBA will notify the submitter if it intends to release business information which either the submitter has previously claimed or which SBA believes to be confidential and the disclosure of which would cause substantial competitive harm. The submitter will have 5 working days to object to the disclosure, explaining why the harm would occur.

(f) Whenever a submitter objects to disclosure, SBA will consider the submitter's objections, but will not be bound by it. If SBA discloses information despite a submitter's objection, SBA will give the submitter the maximum notice possible before disclosure without violating the time constraints imposed by FOIA. In this notice, SBA will tell the submitter when and what it intends to disclose.

(g) SBA will promptly notify the submitter of any suit filed against SBA to compel disclosure.

§ 102.7 What are the procedures for submitters of business information to SBA after March 1, 1996?

Submitters may identify business information at the time of submission which would likely cause them substantial competitive harm if disclosed. The identification shall lapse after 10 years, unless renewed in writing.

§ 102.8 What fees will SBA charge?

(a) *Basic fees.* (1) *For manual record search.* SBA will charge \$18 per hour.

(2) *For computer record searches.* SBA will charge the actual costs.

(3) *For review and disclosure determinations.* SBA will charge \$18 per hour.

(4) *Duplication.* SBA will charge 10 cents per page for photocopy duplication, and the actual cost of reproduction for other methods.

(5) *Certifying records.* SBA will charge actual costs.

(6) *For requested special types of delivery other than first-class mail.* SBA may charge the actual cost.

(b) *If you are a representative of an educational institution, a non-commercial scientific institution, or a member of the news media.* SBA will charge you only for the cost of duplication after the first 100 pages.